



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2012-0180]

RIN 1625-AA09

Drawbridge Operation Regulation; Carlin Bayou, LA

AGENCY: Coast Guard, DHS.

ACTION: Final Rule.

SUMMARY: The Coast Guard is adding a regulation to govern the Louisiana and Delta Railroad (LDRR) vertical lift bridge across Carlin Bayou in Delcambre, Iberia Parish, Louisiana. The bridge currently remains in the open-to-navigation position and only lowers for the passage of trains. This rule codifies the current schedule as a special operating regulation.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0180 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0180 in the

"Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or e-mail David Frank, Bridge Administration Branch; telephone 504-671-2128, email David.M.Frank@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Regulatory History and Information

On May 21, 2012, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulation; Carlin Bayou, LA" in the Federal Register (77 FR 29927). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The LDRR vertical lift span bridge crosses the Carlin Bayou at mile 6.4 in Delcambre, Iberia Parish, Louisiana. The bridge is currently maintained in the open-to-navigation position, closing only for the passage of rail traffic. The railroad bridge has a vertical clearance of two feet above mean high water (MHW) in the closed-to-navigation position. The adjacent highway bridge has a vertical clearance of four feet above MHW in the closed-to-navigation position.

Due to the limited number of trains using the rail line, the bridge owner will maintain the bridge in the fully open position for navigation, only lowering the bridge for the passage of trains as needed. This operating schedule allows vessels to transit the waterway as they normally would while permitting railroad personnel to lower the bridge in conjunction with the existing highway bridge

immediately adjacent to the railroad bridge so that the bridge will not be lowered if a vessel is transiting on the waterway.

Maintaining the bridge untended and in the open-to-navigation position also eliminates the need for a bridge tender. This rule codifies the current bridge operating practice and brings it into compliance with 33 CFR part 117.41(b)(1).

C. Discussion of Comments, Changes and the Final Rule

As part of the NPRM process, a 60-day comment period was provided to allow for comments regarding the proposed change. No comments were received and no changes were made to the rule as proposed.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule is not a significant regulatory action because it codifies the current operating schedule for the LDRR bridge which is already understood, known and accepted by the local bridge and waterway users. Very few vessels will be impacted as the bridge remains open at all times except to allow rail traffic to pass trains two times a day, three days a week.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of

which might be small entities: the owners or operators of vessels wishing to transit Carlin Bayou above mile 6.4.

This action will not have a significant economic impact on a substantial number of small entities because the bridge remains open at all times except to allow rail traffic to pass two times a day, three days a week.

This action will not have a significant economic impact on a substantial number of small entities because it only codifies the existing operation of the draw and there have been no documented economic impacts to small entities with regards to the present operation of the bridge.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the

Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to

coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply,

distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In §117.435, the existing paragraph is designated as paragraph (b), and a new paragraph (a) is added to read as follows:

§117.435 Carlin Bayou.

(a) The draw of the Louisiana and Delta Railroad (LDRR) Bridge, mile 6.4, at Delcambre, shall operate as follows:

(1) The draw shall be maintained in the fully open position for navigation at all times, except during periods when it is closed for the passage of rail traffic.

(2) When a train approaches the bridge, it will stop and a crewmember from the train will observe the waterway for approaching vessels. If vessels are observed approaching the bridge, they will be allowed to pass prior to lowering the bridge. The crewmember will verify that

the adjacent highway bridge is in the closed-to-navigation position prior to initiating the lowering sequence.

(3) After the train has completely passed over the bridge, the crewmember will initiate the raising sequence.

(4) To request openings of the bridge when the lift span is in the closed-to-navigation position, mariners may call the LDRR Signal Supervisor at 337-316-6015.

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Dated: August 25, 2012

Roy A. Nash
Rear Admiral, U.S. Coast Guard
Commander,
Eighth Coast Guard District

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